

Request for Decision

Review of Draft Parks By-law

Presented To:	Community Services Committee
Presented:	Monday, Nov 05, 2012
Report Date	Wednesday, Oct 31, 2012
Type:	Presentations

Recommendation

WHEREAS the Community Services Committee at the June 25, 2012 meeting reviewed the results of the public consultations on the draft Parks By-law;

AND WHEREAS members of the Standing Committee requested more information related to vandalism, smoking and dogs in parks;

AND WHEREAS further community concerns have been received related to midways operating on Bell Park;

THEREFORE BE IT RESOLVED THAT vandalism issues be addressed as part of the 2013 Capital and future Capital budgets for parks design with consideration for CPTED (Crime Prevention Through Environmental Design);

AND THAT smoking in parks be restricted where citizens congregate;

AND THAT dogs in parks continue to be addressed in the Animal Control By-law;

AND THAT Planning Services in consultation with Leisure Services prepare a report for the Planning Committee respecting carnival and midway uses in Park zones;

AND THAT the draft Parks By-law as attached be revised to reflect any further revisions requested by members of the Standing Committee from the November 5, 2012 meeting;

AND THAT a By-law be presented for the December 11, 2012 Council meeting for final approval.

Finance Implications

Capital Funding for CPTED (Crime Prevention Through Environmental Design) and Parks By-law signage will be included as elements in 2013 and future Capital.

Signed By

Report Prepared By

Real Carre
Director of Leisure Services
Digitally Signed Oct 31, 12

Recommended by the Department

Catherine Matheson
General Manager of Community Development
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Recommended by the C.A.O.

Doug Nadorozny
Chief Administrative Officer
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Background

At the March 26, 2012 Community Services Committee meeting, a report and presentation on the draft Parks By-law was provided to members of the Standing Committee. The report provided background information on the existing Parks By-law from the former City of Sudbury along with a recommendation on public consultation dates, locations and online survey.

The results of the community consultations were reviewed with members of the Standing Committee at the June 25, 2012 meeting. At the meeting, members of the Standing Committee requested additional information related to the following:

- Smoking on park property
- Dogs unattended (tied up on bleachers, etc.)
- Vandalism

In addition to the above mentioned concerns, further complaints in regards to authorizing a midway to set up at Bell Park during Summerfest have been received.

Smoking

In regards to the issue of smoking on park property, the City's current Smoking By-law (2004-232) Part 1 - Smoking in Public Places identifies "entranceway" as the area within a nine metre radius surrounding any entrance to a public building or workplace but does not include a public highway. The Sudbury and District Health Unit provided feedback in June, 2012 related to the draft Parks By-law in regards to tobacco control. The SDHU recommends that while in a park, no person shall use tobacco or hold lighted tobacco in and surrounding areas where children under the age of 16 years congregate including but not limited to playground equipment, splash pad surfaces, spectator areas and recreational fields. As reported at the Standing Committee meeting on June 25, 2012, staff has received complaints from adults who were concerned about smoking near the bleachers at the James Jerome Sports Complex. It is recommended that the Sudbury and District Health Unit recommendation on smoking be approved with the following amendment:

"No person shall smoke tobacco in and surrounding areas where individuals congregate."

While the Sudbury and District Health Unit is not in a position to offer enforcement related support for the Parks By-law, the Health Unit tobacco enforcement officer can provide support in the way of education for Parks staff (Security).

Dogs Unattended

Concerns were expressed regarding dogs who are on a leash, tied to bleachers, player benches, playgrounds etc. The Parks By-law does not contain extensive provisions around animal control as that issue is already addressed by the Animal Control By-law.

Vandalism

Concerns were identified related to incidents of vandalism at a number of parks. The Parks By-law addresses this issue under Damage:

"No person, while in any park shall: break, injure, damage, deface, destroy, vandalize, modify, move or remove anything which is the property of the City".

The department has included as part of the 2013 Capital funding an allocation to fund retrofits to parks as identified in a Crime Prevention Through Environmental Design (CPTED) audit. Additional Capital funding will be requested in future Capital envelopes to continue high priority retrofits which will assist with reducing vandalism in parks such as additional lighting, video cameras, etc. As per past practice, the Parks

Security Patrol visits will be increased at sites which have experienced high volume of vandalism and complaints from citizens.

Carnivals (Midways)

The department and Ward Councillor have received complaints in regard to the Carnival (Midway) which has been part of the activities offered by Summerfest at Bell Park. Carnivals are authorized as per the current Zoning By-law which permits carnivals (midways) on properties zoned C-5 - Shopping Centre for commercial only.

As it is the Zoning By-law that permits the use of land, including lands zoned "P" Park, the Report Recommendation includes direction to staff to bring forward a report for the Planning Committee respecting carnivals and midways in Park zones.

Draft Parks By-law

A copy of the draft Parks By-law is attached for Council's consideration. The proposed by-law assigns to the General Manager of Community Development, the responsibility for administering the by-law and delegates the necessary authority to carry out the responsibilities assigned to the General Manager under the by-law.

Activities in the park are governed in different ways. Some activities are prohibited. For instance, activities such as hunting and playing golf are prohibited for safety reasons while actions which would damage City property, are also prohibited outright. Other activities such as skateboarding are permitted only in 'designated areas', and subject to rules and regulations which are posted. Still other activities, such as organized events or organized sports activities are regulated through a permit process. The by-law sets out requirements for applying for a permit, establishes guides for when a permit can be refused, and imposes obligations which always apply to the permit holder. Authority is given to the General Manager to impose conditions appropriate to the circumstances of the application. An appeal process is created to provide flexibility to applicants who are not satisfied with a refusal of a permit, a revocation of a permit, or the imposition of a condition.

The hours of operation set out in the by-law reflect the current practices. The by-law provides for flexibility for the General Manager to make changes to the hours where appropriate to do so. For instance, the General Manager would be able to authorize extended hours for those organized sporting events which wish to operate past the usual park closing time. Similarly, there is authority granted to temporarily close a park in whole or in part, as may be required for health and safety reasons or to protect a park or playing field from damage.

Enforcement

A By-law and police officer(s) have authority to enforce the Parks By-law. In addition, Council has authority to appoint any person for the enforcement of by-laws. Council could in addition appoint members of a hired contract to also enforce the provisions of the Parks By-law. The officers have the ability to lay charges for contravention of the by-law. In addition, it is an obligation of a permit holder to ensure that attendees or participants in an organized event comply with the provisions of the Parks By-law.

Conclusion

Attached are documents for members of the Standing Committee review. A copy of the June 25, 2012 report to Standing Committee provided a survey of the results of the Community Consultation (Appendix A). In addition, a copy of the draft By-Law of the City of Greater Sudbury to Regulate Parks under the Jurisdiction of the City (Appendix B) is attached.

The minutes of the Standing Committee meeting held on November 5, including the draft Parks By-law will be reviewed by Council at the November 20, 2012 meeting. Should the draft be approved as submitted, the Parks By-law of the City of Greater Sudbury to Regulate Parks under the Jurisdiction of the City will be

presented to Council at the December 11, 2012 meeting for final approval.

Request for Decision

Draft Parks By-law - Results of Community Consultation

Presented To: Community Services
Committee

Presented: Monday, Jun 25, 2012

Report Date Wednesday, Jun 13, 2012

Type: Managers' Reports

Recommendation

WHEREAS the Community Services Committee at the March 26, 2012 meeting directed staff to hold public consultations on the proposed City parks By-law, and;

WHEREAS consultations were held at six sites across the City, and;

WHEREAS an online survey was made available to the public and 166 individuals responded to the survey, and;

WHEREAS the concerns of the public were rated as follows:
Cleanliness - 62% Vandalism - 53% Smoking - 43% Animal Control - 42% Motorized Vehicles - 26% Safety - 22% Noise - 16% Public Gathering - 11% Hours of Operation - 10% Commercial activities - 2%

THEREFORE BE IT RESOLVED THAT parks cleanliness and safety be prioritized in the City operations through annual operating budgets, and;

THAT the no smoking By-law be amended as part of the draft parks By-law to include: while in a park, no person shall smoke tobacco or hold lighted tobacco within a nine meter radius surrounding the edge of any playground safety surface or any playground equipment, public seating areas, playfields, wading pools, amphitheatres, gazebos, outdoor rinks, splash pads, and ski lifts, and;

THAT consideration to manage the public boat launching facility equipped with boat washing capabilities such as Ramsey Lake be referred to future budgets, and;

THAT the draft parks By-law be brought back to the Community Services Standing Committee at the September 24th, 2012 meeting for review, and;

THAT the parks By-law for the City of Greater Sudbury be presented to Council on October 30, 2012 for final approval.

Signed By

Report Prepared By

Real Carre
Director of Leisure Services
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Recommended by the Department

Catherine Matheson
General Manager of Community Development
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Background

At the March 26, 2012 Community Services Committee, a report and presentation on the drafts parks by-law was provided to members of the Standing Committee. The report provided background information on the existing Parks by-law from the former City of Sudbury along with a recommendation on the public consultation dates, locations and online survey. A number of issues were identified which required consultation as we move towards establishing a Parks By-law for the City of Greater Sudbury.

The concerns and issues identified included:

1. Motorized vehicles in Parks
2. Dog leash free zones
3. Smoking
4. Public boat launching facilities
5. Midways/Carnivals
6. Commercial activities
7. Parks security/Closing hours

In addition to the above, the Standing Committee at the April 30, 2012 meeting requested that we include as part of the public consultation the requests from an individual interested in operating a flight seeing business off Ramsey Lake (Bell Park). The business proposal included using the existing docks located at the McNaughton Terrace to pick up and drop off passengers for flight seeing tours over the City.

Surveys/Community Consultation

Citizens were invited to attend public input sessions to have their views on the use of Municipal Parks. In addition, those who were unable to attend the sessions were encouraged to fill out a questionnaire on line at www.greatersudbury.ca/parks (copy of the online survey is attached).

The consultation sessions were held from 4 p.m. to 7 p.m. as per the following schedule:

Wednesday, May 16th at Chelmsford Community Centre/Arena (Hall)
Thursday, May 17th at Dr. Edgar Leclair Community Centre/Arena (Hall)
Wednesday, May 23rd at T.M. Davies Community Centre/Arena (Hall)
Thursday, May 24th at Howard Armstrong Recreation Centre
Wednesday, May 30th at Garson Community Centre/Arena (Hall)
Thursday, May 31st at Tom Davies Square (Lobby)

Overall, the consultation sessions were not well attended by the public. Citizens provided the majority of their input by completing the online survey. For Council's information, a copy of the on line survey has been attached.

Summary of Online Survey

As of Friday, June 4th, 2012, there were 166 who responded to the survey. Attached is a summary of the parks By-law survey: The highest percentage of the respondents were from the former City of Sudbury. As part of the survey, it was important to identify if citizens had encountered any issues/concerns while visiting a City of Greater Sudbury park. 69% responded yes, while 31% indicated that they had not encountered any issues/concerns.

The following is a summary of issues/concerns identified:

Cleanliness	62%
Vandalism	53%
Smoking	43%
Animal Control	42%
Motorized Vehicles	26%
Safety	22%
Noise	16%
Public Gathering	11%
Hours of Operation	10%
Commercial activities	2%

Public Input on Concerns and Issues Identified at the March 26th Meeting

1. **Motorized Vehicles in Parks:** Motorized vehicles in parks was identified 5th overall (26%) regarding issues and concerns encountered while visiting City of Greater Sudbury parks. The respondents expressed concerns related to ATV's destroying grass and using multi-use trails. The draft By-Law will recommend that motorized vehicles not be permitted on park properties. The By-Law will however provide exceptions to include emergency vehicles and City maintenance staff.

2. **Dog Leash Free Zones:** Animal control was identified 4th overall (42%). There were comments specific to the lack of off-leash dog parks, dog owners not abiding by the poop/scoop by-laws and dogs not on leashes within park properties. A draft by-law to establish/regulate use of off-leash dog parks will be presented to the Community Services Standing Committee scheduled on Monday, June 25, 2012. The by-law will be presented to Council on July 10, 2012 for final approval.

3. **Smoking:** Smoking was identified 3rd overall at 43% expressing concern. The concerns expressed included smoking near play structures, parks, playgrounds, etc. A resolution has been prepared for Council's approval related to an amendment to the current smoking by-law.

4. **Public Boat Launching Facilities:** There were two questions related to City owned public boat launching facilities:

Should municipal boat launches be used for:

- a) Washing boats prior to launching. There were 84 responses.
 - 54% in favor
 - 46% not in favor
- b) Winter access to lakes by cars/trucks. There were 80 responses.
 - 60% in favor
 - 40% not in favor

The boat washing recommendation has been referred to future capital budget.

5. **Midways/Carnivals:** There were no issues or concerns related to midways/carnivals. It is recommended that midways/carnivals be authorized as per the current zoning by-law which permits carnivals on properties zoned C5 - shopping Centre for commercial only.

6. **Commercial Activities:** Commercial activities was not identified as major concerns (2%). Staff

recommends that while in a park, no person shall, except as part of an activity authorized by permit to operate any commercial activity within the parks.

7. Parks Security/Closing Hours: Safety and vandalism were identified as concerns. It is recommended by staff that these concerns be prioritized in the City operations through annual operating budgets. 92% expressed satisfaction on the current hours of park operation (6 a.m.- 11 p.m.)

8. Commercial Float Plane Sightseeing Venture - Bell Park: In regards to the proposal to operate float plane sightseeing venture in Bell Park, 109 individuals responded to the question.

- 54% supported the proposal
- 46% did not support the proposal

General Comments were:

- only during specific times
- concerns about noise, safety, water pollution

Staff have prepared options for Council's consideration as per the report on Docking Requests/Bell Park which is also scheduled as part of the Community Services Standing Committee meeting of June 25th, 2012.

Next Steps

Standing Committees direction on certain issues will be incorporated in part of the draft Parks By-law. The draft By-law will be presented Standing Committee on September 24th, 2012. The By-law will be presented to Council for final approval on October 30th, 2012.

BY-LAW 2012-*

**A BYLAW OF THE CITY OF GREATER SUDBURY TO
REGULATE PARKS UNDER THE JURISDICTION OF THE CITY**

WHEREAS section 10 of the *Municipal Act, 2001*, S.O. 2001, c. 25, as amended (the "*Municipal Act 2001*") confers the power to a municipality to pass by-laws respecting various matters, including public assets of the municipality acquired for the purpose of exercising its authority under the *Municipal Act, 2001* or other act; the health, safety and well-being of persons; protection of persons and property, including consumer protection; animals; and other matters;

AND WHEREAS Paragraph 9(3)(b) of the *Municipal Act, 2001* confers the power upon a municipality in exercising its powers to regulate and prohibit respecting a matter, to provide for a system of licenses, permits, approvals or registrations respecting the matter, and to impose conditions as a requirement of obtaining, continuing to hold or renew a license, permit, approval or registration;

AND WHEREAS the Council of the City of Greater Sudbury deems it desirable to regulate the use of and activity in parks within the City;

**NOW THEREFORE THE COUNCIL OF THE CITY OF GREATER SUDBURY
HEREBY ENACTS AS FOLLOWS:**

Terminology

1. In this By-law:

"Authorized Sign" means any sign, notice or other device which has been placed or erected in or upon a Park under the authority of this or any other By-law;

"By-law Enforcement Officer" means a member of any police service with jurisdiction in the City, or any person appointed by Council for the enforcement of municipal by-laws, including this By-law;

"City" means the municipal corporation of the City of Greater Sudbury or the geographic area, as the context requires;

"Council" means the elected Council of the City of Greater Sudbury;

"Designated Area" means an area, defined, constructed or set aside for a specific use and may include an area with Posted Conditions;

"Fireworks" includes Family Fireworks and Exhibition Fireworks as defined in the City's By-law to Regulate the Sale and Discharge of Fireworks, By-law 2011-100, as amended or replaced;

"General Manager" means the General Manager of Community Development and includes her or his authorized representative and any City employee acting under her or his direction;

"Hearing Committee" means the Hearing Committee appointed by Council from time to time to hear matters referred to the Hearing Committee by By-law;

"Leash-Free Zone" means an enclosed area set aside as an area where dogs are not required to be leashed or otherwise restrained except by the area enclosure as governed by the City's By-law 2012-145, being a By-law to Establish and Regulate the Use of Off - Leash Dog Parks;

"Liquor" means spirits, wine and beer or any combination thereof and includes any alcohol in a form appropriate for human consumption as a beverage, alone or in combination with any other matter;

"Motor Vehicle" includes an automobile, truck, motorcycle, motor home, trailer or any other similar vehicle which is or can be licenced for use on a public highway and which is capable of being driven, propelled or drawn by any kind of combustible, battery, solar or electric power. For the purposes of this By-law a Motor Vehicle excludes a wheelchair or other similar device (powered or otherwise) used by an individual due to disability and a Motorized Recreational Vehicle;

"Motorized Recreational Vehicle" includes a snowmobile as defined in the *Motorized Snow Vehicle Act*, R.S.O. 1990, c. M.44, as amended or replaced from time to time, an off-road vehicle as defined in the *Off-Road Vehicle Act*, R.S.O. 1990, c. O.4, as amended or replaced from time to time, including, an all-terrain vehicle, a go cart, a motor-assisted bicycle, power-assisted bicycle, golf cart, pocket bike or any other device which is capable of being driven, propelled or drawn by any kind of combustible, battery, solar or electric power, whether or not same can be licenced for use on or operated on a public highway. For the purposes of this By-law a Motorized Recreational Vehicle excludes a wheelchair or other similar device (powered or otherwise) used by an individual due to disability and a Motor Vehicle;

"Organized Gathering" includes picnics, events or gatherings, whether or not formally constituted, for more than 25 persons and also includes festivals;

"Organized Sport or Activity" means a sport, game or activity by a group or organization whether or not formally constituted and whether or not the players or members wear uniforms;

"Park" means any land, land covered by water and any portion thereof owned by or made available by lease, agreement or otherwise to the City, that is or may in the future be established, dedicated, set apart or made available for use to as open public space for active or passive recreation and includes all buildings, structures, facilities, erections, improvements and amenities, located in or on the land but does not include a Leash Free Zone;

"Permit" means any permit issued by the General Manager, to whom such authority has been delegated by Council pursuant to Section 5;

"Person" includes an individual, a sole proprietorship, a partnership, an unincorporated association, a trust, a corporation, and a natural person;

"Post, Posting or Posted" refers to the erection or presence of an Authorized "Sign" ;

"Posted Conditions" means the conditions of use for a Designated Area as shown on an Authorized Sign;

"Public Parking Area " means any area of a Park Posted by the City for the purposes of providing temporary parking of a licensed Motor Vehicle; and

"Refuse" means anything for which the holder has no further use and which the holder has discarded.

Interpretation

2.-(1) Whenever this By-law refers to a person or thing with reference to gender or the gender neutral, the intention is to read the By-law with the gender applicable to the circumstances.

- (2) References to items in the plural include the singular, as applicable.
- (3) The words "include", "including" and "includes" are not to be read as limiting the phrases or descriptions that precede them.
- (4) Headings are inserted for ease of reference only and are not to be used as interpretation aids.
- (5) Specific references to laws in the By-law are printed in italic font and are meant to refer to the current laws applicable with the Province of Ontario as at the time the By-law was enacted, as they are amended from time to time and include regulations thereunder.
- (6) Any reference to periods of time, stated in numbers of days, shall be deemed applicable on the first business day after a Sunday or Statutory holiday if the expiration of the time period occurs on a Sunday or Statutory holiday.
- (7) The obligations imposed by this By-law are in addition to obligations otherwise imposed by law or contract.
- (8) Where any expression of time occurs, the time referred to is intended to be the system of timekeeping in force in the City at the time of application of the By-law. For example, during the month of December, the time is expressed in standard time; however, during the month of July, the time is expressed in daylight savings time.
- (9) Words which are not defined for the purposes of this By-law shall be read in their ordinary, everyday meanings.
- (10) References to a whole include references to a part of the whole, whether or not so specified.

Severability / Conflict

3.-(1) If any section, subsection, part or parts of this By-law is declared by any court of law to be bad, illegal or ultra vires, such section, subsection, part or parts shall be deemed to be severable and all parts hereof are declared to be separate and independent and enacted as such.

- (2) Nothing in this By-law relieves any person from complying with any provision of any Federal or Provincial legislation or any other By-law of the City.
- (3) Where a provision of this By-law conflicts with the provisions of another By-law in force in the City, the provision that establishes the higher standard to protect the health, safety and welfare of the general public shall prevail.

Application / Risk

4.-(1) Except as expressly provided to the contrary in this By-law, this By-law shall apply to every Park in the City.

- (2) Despite subsection 4(1), this By-law shall not apply to:
 - (a) an employee of or contractor of the City while in the course of carrying out assigned work or duties on behalf of the City in a Park;
 - (b) a contractor of the City or while engaging in activities in the Park authorized pursuant to agreement under the City's Purchasing By-law;
 - (c) an emergency service responder, while in the course of providing emergency response services; or

- (d) an employee or contractor of a public utility in the course of providing services offered by the utility.

(3) The use by or presence of any Person in any Park for any activity or purpose shall be entirely at his or her own risk. Such uses include all passive or active recreational activities, including, without limitation, use of any natural or artificial ice surface, any swimming area and use of any playground equipment and any playing field, tennis court or facility provided in a Park. It is the responsibility of the parent or guardian of any minor to ensure that the minor is adequately supervised at all times while on or in any Park.

Administration

5.-(1) The administration of this By-law is assigned to the General Manager who is also delegated the authority to make all decisions required of the General Manager under this By-law and to perform all administrative functions identified herein and those incidental to and necessary for the due administration of this By-law. The authority granted hereunder does not include the authority to negotiate or sign agreements of a type referred to in Section 18.

Delegation

(2) The General Manager may delegate the performance of any one or more of her or his functions under this By-law to one or more persons from time to time as the occasion requires and may impose conditions upon such delegation and may revoke any such delegation. The General Manager may continue to exercise authority granted hereunder despite any such delegation.

Guidelines - Posted and Designated Areas

(3) The General Manager may establish Designated Areas, establish conditions of use and direct the Posting in a Park of an Authorized Sign which relates to uses or activities or conditions of use where, in the opinion of the General Manager, so doing:

- (a) does not prejudice the safety of the public;
- (b) will not result in the contravention of any other applicable law;
- (c) will be in accordance with an approved process, policy, plan or study;
- (d) will improve, enhance or make safe the passive or active use of a Park; or
- (e) will protect the condition of the Park.

Application for Permit

6.-(1) Every applicant for a Permit under this By-law shall:

- (a) file with the General Manager an application in the form established by the General Manager from time to time, which includes the following:
 - (i) the applicant's name, address, contact information;
 - (ii) a telephone number or other acceptable emergency contact information;
 - (iii) particulars of the proposed date, time, Park and location within the Park for which the Permit is sought;
 - (iv) particulars of the activity or use for which the Permit is sought;

- (v) such other particulars as the General Manager may require to investigate, assess and process the application; and
 - (vi) the signature of the applicant, and where the applicant is a corporation, the signature of a person who has authority to bind the applicant, and where the applicant is a member of an unincorporated association or group, by an individual accepting liability on behalf of the unincorporated association or group, certifying the accuracy of the information provided. An agent of the applicant is not authorized to sign the application on behalf of the applicant;
- (b) file with the General Manager as part of the application such supporting documentation as may be set out in the application or required by the General Manager to assess the application;
 - (c) provide proof of insurance required under Subsection 8(1); and
 - (d) pay any applicable user fee determined in accordance with the City's Miscellaneous User Fee By-law then in effect.
- (2) The application is complete once all required information, documentation and fees have been submitted.

Refuse to Issue Permit

7.-(1) The General Manager shall refuse to issue a Permit under this By-law if:

- (a) the application is incomplete;
- (b) the approval of the application will result in the contravention of any applicable law;
- (c) the proposed activity or use for which the Permit is sought is not of a type authorized by this By-law;
- (d) the proposed activity or use for which the Permit is sought will, in the opinion of the General Manager:
 - (i) interfere unduly with the enjoyment of the Park by others;
 - (ii) unduly interfere with the use and enjoyment of persons who own or occupy property in the area of the Park;
 - (iii) result in damage to the Park;
 - (iv) result in undue health or safety risks for Park users or others; or
 - (v) be inconsistent with another City By-law or City policy;
- (e) a review of records indicates that the applicant owes money to the City for any reason related to
 - (i) this By-law or a By-law repealed by this By-law; or
 - (ii) any activity or program operated by the City's leisure services department; or
 - (iii) any facility use permit previously issued by the General Manager;

- (f) the past behavior of the applicant is such that that the General Manager does not believe the applicant will comply with the terms and conditions of the Permit;
- (g) a prior Permit has been revoked due to non-compliance with the Permit, whether the Permit was issued under this By-law or a By-law repealed by this By-law;
- (h) the applicant is under the age of 18 years; or
- (i) the proposed activity is not an activity permitted under the City's Zoning By-law for the Park.

(2) The General Manager shall advise the applicant in writing of her or his decision to not issue a Permit under this By-law and the reason for the refusal. Notice of the decision may be delivered to the applicant, or mailed to the address for the applicant shown in the application. Service shall be deemed effective immediately, if delivered to the applicant or on the 5th day after mailing, if the notice of decision is mailed to the applicant, whether or not the notice is actually received.

Issuance of Permit / Permit Conditions

8.-(1) Where the applicant has complied with the requirements of Section 6 and the issuance of the Permit is not otherwise prohibited under this By-law, the General Manager is authorized to issue a Permit specifying particulars of:

- (a) the name of the Permit holder;
- (b) the Park, the authorized location within the Park, the permitted use, approved day, date and times of use; and
- (c) such conditions or provisions as the General Manager determines to be appropriate in the circumstances.

(2) In issuing a Permit, the General Manager may specify particulars that differ from that proposed in the application.

(3) Whether or not specified by the General Manager in the Permit, every Permit is issued subject to the following conditions:

- (a) the Permit holder shall be responsible to comply with and ensure that participants under the authority of the Permit comply with the provisions of and conditions in the Permit and this By-law;
- (b) the Permit holder shall maintain at his or her own expense, liability insurance coverage in the name of the Permit Holder related to the activity authorized by the Permit and subject to limits of not less than Two Million Dollars inclusive per occurrence, for bodily injury, death and damage to property or such other or greater coverages as the General Manager determines to be appropriate in the circumstances, and naming the City as an additional insured as its interests may appear;
- (c) the Permit holder shall follow incident reporting procedures established by the General Manager, in the event of an incident in a Park; and
- (d) the Permit holder shall indemnify and safe harmless the City, its elected and non-elected officials, employees and agents from any and all claims, demands, causes of action, losses, costs or damages that any of the foregoing may suffer, incur or be liable for resulting from or arising from

the use of the Park whether with or without negligence on the part of the applicant, the applicant's employees, directors, contractors or agents.

- (5) The General Manager issues a Permit by dating as of the date of issuance and signing the Permit.

Expiry / Revocation / Transfer of Permit

9.-(1) A Permit issued under this By-law shall be in effect only on the day / date and during the time specified in the Permit and authorizes the Permit holder to use only the use of the location specified in the Permit.

(2) The General Manager may revoke a Permit wherein the opinion of the General Manager, the Permit Holder has failed to comply with any condition or provision of a Permit or this By-law. The revocation of the Permit shall be in addition to any other enforcement proceedings against the Permit holder under this By-law.

(3) Upon revocation of a Permit, the Permit holder of the revoked Permit shall immediately cease or ensure the immediate cessation of all the activities under the Permit and the use of the Park for which the Permit was issued.

(4) No Permit issued under this By-law is transferable. Every Permit remains the property of the City.

Appeal

10. An applicant shall be entitled to appeal to the Hearing Committee:

- (a) a decision of the General Manager to refuse to issue a Permit;
- (b) a condition imposed by the General Manager in a Permit; or
- (c) a decision of the General Manager to revoke a Permit.

Duties – Permit Holder

11.-(1) Every Permit holder shall keep a copy of the Permit, or cause a copy of the Permit to be kept at the site of the activity authorized in the Permit.

(2) Every Permit holder shall produce the Permit or cause the Permit to be produced when asked to do so by a By-law Enforcement Officer.

(3) Every Permit holder shall comply with and cause every Person participating in any activity authorized under the Permit to comply with this By-law and the provisions in the Permit including any conditions included or deemed to be included in the Permit.

Permit Required - Exclusive Use

12. (1) No Person shall have or claim exclusive use of any portion or all of a Park, except in accordance with a Permit.

(2) No Person, while in any Park, shall:

- (a) hold or organize an Organized Gathering unless authorized by Permit; or
- (b) arrange or engage in an Organized Sport or Activity, unless authorized by Permit; or
- (c) interfere with an Organized Gathering or an Organized Sport or Activity authorized by Permit.

Interfere with Permitted Activity

13. No Person shall interfere with or attempt to interfere with any use or activity authorized by Permit.

Designated Area

14-(1). No Person, while in a Park shall:

- (a) enter into a Designated Area which is Posted under the authority of this By-law to prohibit or restrict admission of the public; or
- (b) enter into a Designated Area for a purpose contrary to the Designated purpose; or
- (c) fail to abide by Posted Conditions or Authorized Signs placed under the authority of this By-law.

Closing Hours

15.-(1) Subject to Subsections 15(2) to 15(4) inclusive, all Parks shall be closed from 11:00 p.m. each day until 6:00 a.m. the following day.

Posted Closing Hours

(2) Despite Subsection 15(1) the General Manager may Post hours of closing of a Park other than as set out in Subsection 15(1) and in any such instance, the posted hours shall prevail.

Temporary Extension of Closing Hours - Permit

(3) Despite Subsection 15(1) the General Manager may, in a Permit, temporarily extend the hours of a Park for the purposes of the activity or use authorized by the Permit, where the General Manager feels it is appropriate to do in order to accommodate an Organized Gathering or Organized Sport or Activity and subject to such conditions as the General Manager may impose in the Permit.

Guidelines - Temporary Closing of a Park

(4) Despite Subsection 15(1) the General Manager may temporarily close a Park where:

- (a) ground conditions exist which may be a hazard;
- (b) the use of the Park may result in damage to the grounds;
- (c) the General Manager determines it is necessary for the health or welfare of the public; or
- (d) to accommodate an Organized Gathering or an Organized Sport or Activity being held within the Park pursuant to a Permit.

(5) Where the General Manager temporarily closes a Park pursuant to Subsection the General Manager may communicate the temporary closure by Posting an Authorized sign notifying of the temporary closure, or by any other means the General Manager determines to be appropriate in the circumstances.

(6) Any Permit issued for use of a Park during a period that the Park is temporarily closed for any of the reasons in Paragraphs 15(4)(a) - (c) is automatically revoked.

Prohibition - When Park Closed

16. No Person shall enter or remain in a Park during any period when a Park is closed, except where permitted in accordance with a Permit which has not been revoked.

Damage

17. No Person, while in any Park shall:

- (a) climb any building, structure, equipment or other thing unless it was designed for climbing;
- (b) break, injure, damage, deface, destroy, vandalize, modify, move or remove anything which is the property of the City;
- (c) move or remove any rocks, boulders or rock faces;
- (d) remove any soil, sand, gravel, stone or wood or any tree, plant or vegetation;
- (e) in any manner, disturb ground which is under repair, prepared for planting, newly seeded or in an area Posted to that effect; or
- (f) use a play structure, playing field, ball diamond, tennis court, skateboard facility, or any building, structure, park furniture, improvement or facility provided in the Park for the use and benefit of the public, for any purpose except the purpose for which it was intended.

Encroachment

18.-(1) No Person shall encroach upon or take possession of any Park by any means whatsoever, including, without limitation:

- (a) planting or cultivation of any hedge, tree, shrub, grass, or garden;
- (b) construction or placement of any fence, gate, storage shed, retaining wall or other structure of any kind or any equipment of any kind;
- (c) dumping, storing or keeping of any composting receptacle, composting pile, waste container or other material or article; or
- (d) placing of any string, wire, chain, rope or similar material;

unless authorized by way of written encroachment agreement or other licence agreement entered into with the City.

(2) No Person shall enter upon or occupy a Park for the purposes of engaging in work on private property unless authorized by way of written agreement with the City.

(3) No Person shall:

- (a) dump or dispose of or authorize or permit the dumping or disposal of any snow, fill, soil, building or construction materials or any discarded or unused item in any Park; or
- (b) dump, drain or discharge or authorize or permit the dumping, draining or discharging onto any soil or into any water source or water body, natural or manmade, within a Park, any substance, liquid or solid, toxic or otherwise which may have the effect of polluting or contaminating the soil or water.

(4) No Person shall make or authorize or permit the making of any change or alteration to the Park, including without limitation, installing park furniture, planting a garden, tree, plant or other vegetation, installing items of ornamentation, installing sports equipment, constructing obstacle courses or jumps intended for use by a Person riding a bicycle, skateboard, snowboard, rollerblades or the like. Nothing herein shall restrict the authority of Council to authorize agreements for the installation of public art, equipment, structures or the like in a Park, as Council determines to be appropriate in the circumstances.

(5) Despite Subsection 18(4), the General Manager may authorize temporary installations in a Park, as part of an event being held in a Park pursuant to a Permit and may impose conditions in the Permit for the purpose of protecting the condition of the Park.

Objectionable Behaviour

19. No Person, while in a Park shall:

- (a) engage in language, behaviour or conduct which is loud, boisterous, threatening, abusive, insulting or indecent;
- (b) engage in disorderly conduct or behaviour;
- (c) engage in any activity, conduct or behaviour so as to interfere with or become a nuisance to the general public using the Park;
- (d) engage in any activity, conduct or behaviour that endangers the health and safety of himself, herself or others; or
- (e) urinate or defecate except in a washroom facility intended for such purpose.

Refuse

20.-(1) No Person while in any Park shall:

- (a) fail to deposit Refuse in containers provided; or
- (b) fail to remove Refuse from the Park, where Refuse containers are not provided or are full; or
- (c) bring any Refuse into the Park for disposition or any other purpose.

(2) No Person shall throw, deposit, drop, place, dispose of or abandon in a Park, including in a refuse container in a Park, any needle, syringe, lancet, razor blade, or other sharp object.

Wildlife

21.-(1) No Person, while in any Park shall hunt, kill, attempt to kill, maim, injure, trap, collect, remove or disturb any animal, bird, nest, eggs, waterfowl, fish, worms or other wildlife, unless authorized by an applicable governmental licensing body.

(2) No Person, while in any Park shall provide, cause to be provided, deposit, put out or leave any food intended for consumption by or that may be consumed by any animal, bird, waterfowl or other wildlife.

Liquor

22. No Person shall bring into, keep, consume, serve or sell any liquor in any Park, unless such Person has received a license from the Alcohol and Gaming Commission

of Ontario, as required for such activity and a Permit has been issued permitting such activity. Nothing in this section relieves any person from the requirements to obtain a liquor license pursuant to the *Liquor License Act*.

Fireworks

23. No Person, while in any Park, shall ignite, discharge or set off any Fireworks, except where such Person has received a Permit for Exhibition Fireworks authorized in accordance with the City's Fireworks By-law 2011-100 as amended or replaced from time to time for such activity and a Permit has been issued permitting the activity.

Barbeque

24. No Person, while in any Park, shall:

- (a) use gas, charcoal or other solid-fueled portable barbecues unless authorized by Permit; or
- (b) leave a barbecue without extinguishing the barbecue and ensuring that any remaining embers are cold.

Sound Equipment

25. No Person, while in any Park, shall operate or authorize or permit the operation of any loud speakers or amplifying equipment, except as part of an activity authorized by Permit and in accordance with the conditions of the Permit.

Camping

26.-(1) No Person, while in any Park, shall dwell, camp, lodge or erect or authorize or permit the erecting of any tent, shelter or structure of any kind, or place or park any camping trailer or the like, unless authorized by Permit.

(2) No Person shall be entitled to a Permit to authorize overnight camping except for the Designated camping areas in Ella Lake Park, Centennial Park or Whitewater Lake Park.

Commercial Activities

27. While in a Park no Person shall, except as part of an activity authorized by Permit and in accordance with the conditions of the Permit and any other applicable licence required for the activity:

- (a) sell, offer to sell or display for sale any flowers, food, including fruits and vegetables, drink or refreshment;
- (b) operate any business, game, show or amusement for admission by the public;
- (c) solicit funds for any charity, organization or individual of any kind;
- (d) sell, offer to sell or display for sale any goods, wares, merchandise, or articles including promotional material, souvenirs and novelties ; or
- (e) sell, offer to sell or display or sale, any art, skill, service or work.

Swimming

28. No Person, while in any Park, shall:

- (a) fail to obey the instructions of any lifeguard or other authorized Person, while in or adjacent to any Designated Area Posted as a swimming area; or
- (b) misuse or damage any equipment of the City designed or intended for use as life-saving equipment.

Washrooms / Shower Facility / Change Rooms

29.-(1) No Person, while in any Park, shall:

- (a) enter into any portion of any washroom, shower facility or change room Posted for use by the opposite sex;
- (b) use or operate or turn on while in a washroom, shower facility or change-room any photographic device, including a camera, video equipment or cellular phone with video or photographic function;
- (c) loiter in any washroom, shower facility or change-room; or
- (d) use any washroom, shower facility or change room for any purpose other than its intended use.

(2) Notwithstanding Paragraph 29(1)(a), children six (6) years of age and under are permitted to access an opposite sex washroom, or change-room while in the presence and care of a parent or guardian. Nothing in this Subsection shall affect the City's Arena Dressing Room Policy, By-law 2012-63 as amended or replaced from time to time.

Promotional Material

30. No Person, while in any Park shall:

- (a) expose, post or affix notices or promotional material to any surface in a Park, except a bulletin board created for that purpose and in accordance with protocols established by the General Manager; or
- (b) to hand out, distribute or leave or make available for distribution, any promotional or informational flyers, circulars or other similar materials unless authorized as part of an activity or use authorized by a Permit and in accordance with the conditions of the Permit.

Dogs / Animals

31.-(1) Except as provided in Subsection 31 (2) no Person shall bring, allow or permit an animal under his or her care and control, in a Park, except as part of an activity or use authorized by a Permit.

(2) Subsection 31(1) shall not apply to:

- (a) a Person who has care and control of a dog, where the Person is compliant with the City's Animal Control By-law 2002-285 as amended or replaced; or
- (b) a Person using the services of a dog that is a guide dog or other trained service animal identifiable by a harness used principally to assist persons with a visual, hearing or other impediment.

(3) No Person with care and control of a dog shall fail to take reasonable precautions, while in a Park to prevent the dog from:

- (a) behaving in a manner that poses a menace to the safety of persons or animals; and
- (b) causing damage to any garden, plant, vegetation, building, structure, fence, park furniture, playground equipment, playing field or other facility or thing provided or intended for the use of the public in a Park.

(4) Subject to 31(5) no Person with care and control of dog, shall, while in a Park, allow or permit the dog to enter into or remain in any splash pad, playground area, sports field, ball diamond, tennis court, any natural or artificial ice surface intended for ice skating, ski hill, garden, flower bed, planter or landscaped area or any Designated Area Posted for use for swimming or skateboarding.

(5) Subsection 31(4) does not apply to a Person using the services of a dog that is a guide dog or other trained service animal identifiable by a harness used principally to assist persons with a visual, hearing or other impediment.

Golf

33. No Person, while in a Park, shall strike a golf ball.

Gamble

34. No Person, while in any Park, shall gamble or wager sponsor or organize or participate in a gambling or wagering event unless authorized by a City-issued lottery license or a license issued by the Alcohol and Gaming Commission and a Permit has been issued authorizing such activity.

Skateboards, Rollerblades

35. No Person shall participate in skateboarding, rollerblading, inline skating or similar activity in a Park except in a Designated Area Posted for such purpose.

Kites

36-(1) No Person while in a Park shall:

- (a) fly a kite with a line that is metallic or contains wire;
- (b) fly a kite within 25 metres of any tree, building, light pole, hydro or other utility pole; or
- (c) fail to remove from the Park, any part of the kite, including the string or other type of tethering material that could cause damage to any person, property or wildlife.

(2) Despite Subsection 36(1), no Person shall fly a kite in the Park located on Lot 35 on Plan M-324, known as Matson Park.

Ice Surface

37.-(1) No Person, while on any natural or artificial ice surface located in any Park shall engage in the sport of speed skating except as part of an activity authorized by Permit.

(2) No Person, while in any Park shall use any natural or artificial ice surface while it is being maintained or prepared for use.

(3) No Person, while using any natural or artificial ice surface in any Park shall fail to obey the instructions of skate patrol personnel.

Watercraft

38.(1) No Person while in a Park shall:

- (a) launch or retrieve a motorized watercraft except from a boat ramp Posted for such purpose; or
- (b) moor or dock a motorized water craft except in an area Posted for such purpose.

(2) Despite Subsection 38(1), a Person may launch or remove a motorized watercraft from the Park on Nephawin Lake commonly known as Nephawin Park, in accordance with protocols established by the General Manager from time to time.

Use of Vehicles

39.-(1) No Person shall:

- (a) park a Motor Vehicle in any Park, except in a Public Parking Area;
- (b) drive or operate a Motor Vehicle in a Park except in a Public Parking Area or in the case of the Parks commonly known as Camp Wasaka, Camp Sudaca, Ella Lake Trailer Park, Centennial Trailer Park, Whitewater Lake Trailer Park, on the driveways Posted for use;
- (c) park any Motor Vehicle or leave a Motor Vehicle parked in a Public Parking Area when the Park is closed except where authorized as part of an activity or use authorized by a Permit and in accordance with the conditions of the Permit;
- (d) wash, clean, polish a Motor Vehicle while in a Park except as part of an activity authorized by Permit; or
- (e) service, maintain or, with the exception of an emergency, to repair any Motor Vehicle while in a Park;
- (f) use any Public Parking Area for the purpose of instructing, teaching or coaching any Person in the driving or operation of a Motor Vehicle.

(2) No Person shall drive, operate, ride, park or be in possession or control of any Motorized Recreational Vehicle in any Park.

Enforcement - No Obstruction - Self Identify Etc.

40.-(1) This By-law may be enforced by any By-law Enforcement Officer.

(2) No Person shall hinder or obstruct, or attempt to hinder or obstruct, any Person exercising a power or performing a duty under this By-law.

(3) No Person shall fail to identify himself or herself to a By-law Enforcement Officer when requested to do so.

Trepass / Direction to Leave Park

41.-(1) Where any Person contravenes any provisions of this By-law, such Person is subject to the provisions of the *Trepass to Property Act*, R.S.O. 1990, c. T.21.

(2) Where any Person contravenes any of the provisions of this By-law the permission of such Person to remain in that Park is revoked.

(3) Every Person using a Park is subject to all applicable City By-laws and all Provincial and Federal laws and regulations. Where any Person contravenes the

provisions of any applicable City By-law, or Provincial or Federal law or regulation while in a Park, the permission of such Person to remain in the Park is revoked.

(4) The General Manager or a By-law Enforcement Officer or any person under contract with the City to provide security services in City Parks may orally or in writing, order any Person he or she believes to be in contravention of this By-law or any other applicable City By-law or Provincial or Federal law or regulation, to:

- (a) cease the activity that is in contravention of this By-law; or
- (b) leave the Park.

(5) No Person shall fail to comply with an order issued pursuant to Subsection 41(4) by the General Manager or by a By-law Enforcement Officer or any person under contract with the City to provide security services in City Parks.

Offences and Penalties

42-(1) Every person who contravenes any of the provisions of this By-law and any director or officer of a corporation who concurs in such contravention is guilty of an offence and on conviction is liable to a fine as provided for in the *Provincial Offences Act*.

(2) For the purposes of Subsection 42 (1), each day on which a person contravenes any of the provisions of this By-law shall be deemed to constitute a separate offence under this By-law.

(3) The levying and payment of any fine as provided for under the *Provincial Offences Act* shall not relieve a person from the necessity of paying any costs or charges for which such person is liable under this By-law.

(4) An offence and subsequent conviction under this By-law pursuant to the *Provincial Offences Act*, R.S.O. 1990, c. P. 33 or the *Municipal Act, 2001*, shall not be deemed in any way to preclude the City from issuing a separate legal proceeding to recover charges, costs and expenses incurred by the City and which may be recovered in a Court of competent jurisdiction.

(5) The making of a false or intentionally misleading recital of fact, statement or representation in any application provided required by this By-law shall be deemed to be a violation of the provisions of this By-law.

Costs Recoverable as Debt

43. Every person who acts in contravention of this By-law so as to cause the City to incur costs due to his or her actions, shall, in addition to any penalty provided for herein, be liable to the City for all expenses incurred for the purpose of repairing or replacing damaged property or removing unauthorized materials and such expenses may be recovered by court action.

Prohibition Order

44. When a person has been convicted of an offence under this By-law, the Ontario Court (Provincial Division), or any court of competent jurisdiction thereafter may, in addition to any other penalty imposed on the person convicted, issue an order prohibiting the continuation of the offence or doing of any act or thing by the person convicted directed towards the continuation of the offence.

Confidential Information

45.- (1)All information submitted to and collected by the City, will, except as otherwise provided in this Section, be available for disclosure to the public in accordance with the *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c. M.56 (MFIPPA).

(2) In the event that any person in submitting information to the City or to the General Manager in any form, as required under this By-law, where such information is confidential or proprietary or otherwise may be exempt from disclosure under the MFIPPA, the person submitting the information shall so identify that information upon its submission to the City or the General Manager and shall provide sufficient details as to the reason for its purported exemption from disclosure.

Short Title

46. This Bylaw may be referred to as the “Parks By-law”.

Repeals

47. Each of the following By-laws and all amendments thereto are hereby repealed:

- (a) By-law 76-100 and Chapter 594 of the Municipal Code of the former Corporation of the City of Sudbury;
- (b) By-law 83-16 of the former Town of Nickel Centre; and
- (c) By-law 76-100 of the former Town of Valley East.

Transition

48. Every Permit issued prior to the passage of this By-law under the authority of a By-law repealed under Section 47 shall continue in force and be deemed to be issued under this By-law.

Enactment

50. This By-law shall come into force and take effect immediately upon the final passing thereof.

READ AND PASSED IN OPEN COUNCIL this day of

_____ Mayor

_____ Clerk